

REMARKS

The Office Action mailed on October 31, 2005 finally rejected the pending claims in view of the deficiency of the Declaration under 37 C.F.R. §1.131 submitted on August 10, 2005.

The Examiner stated that the Declaration failed to antedate the Lobanov reference (U.S. Pat. No. 6,834,239) because (1) the Declaration is not signed by two out of four listed inventors and (2) the Declaration fails to state that the acts described were performed in the USA or a NAFTA or a WTO member country.

For the stated reasons, the pending claims (Claims 2-3, 7-9, 11, 16, 22-25, 27-30, 34 and 37) stand rejected under 35 U.S.C. §102(e) over U.S. Pat. No. 6,834,239.

In response to the Examiner's rejection, Applicants submit herewith copies of a corrected Declaration, each copy signed by a respective one of the listed inventors: Simon Kasif, Beth T. Logan, Pedro J. Moreno, and Baris E. Suzek.

Furthermore, the attached Declaration states that the acts described were performed in the USA. (Paragraph 17.)

Applicants believe that the corrected Declaration cures the deficiencies objected to by the Examiner. With reference to the arguments presented by Applicants in Amendment D (submitted on August 10, 2005) and the attached 131 Declaration, Applicants submit that the rejection under 35 U.S.C. §102(e) cannot stand where the cited reference, U.S. Pat. No. 6,834,239, was not "... filed in the U.S. before the invention by the applicant." (35 U.S.C. §102(e), *emphasis added*.) That is, the attached 131 Declaration shows conception as early as May 2000, due diligence from May 2000 through reduction to practice and beyond to filing of the instant application and reduction to practice by July 5, 2000. Lobanov's earliest operative date of August 22, 2000 is not before invention by the instant Applicants.

Reconsideration and withdrawal of the rejection are respectfully requested.

CONCLUSION

In view of the above amendments and remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

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